

Abstract

Role of Plea Bargaining in the US

The aim of this thesis is to explain to the reader the term Plea Bargaining, to explain the principles of this legal institute and its role in the penal system of the United States of America. The Author does not only describe the Plea Bargaining, but also analyses the institute thoroughly, accenting its positive and negative aspects, considering the point of view of the particular participants of the process. Last but not least, the thesis contains the author's critical evaluation.

The institute of Plea Bargaining appears in the common law system from the second half of the nineteenth century, while evincing a quantitative growth in the long term. Currently, it is being used in the absolute majority of penal proceedings, and a change in this trend can in no way be expected in the closest future – therefore, this institute shall be considered as absolutely indispensable for the law of the United States of America. Despite its wide use, its application also gives rise to negative emotions. Relatively often, there are opinions appearing, questioning its legitimacy and legality, for Plea Bargaining is not regulated in the statute law and is not only directly contrary to the Constitution of the United States of America, but also to multiple international treaties on human rights and to some basic principles of the penal law and penalization generally. This theme is therefore at least controversial.

This thesis is trying to examine the process of negotiations and talks, which create the very base of the Plea Bargaining, further describes the role of prosecutors, judges, defence attorneys and defendants in these negotiations and shows the basic rules and principles of the Plea Bargaining. Further, the author tries to show the reasons, why Plea Bargaining is plentifully used, but meanwhile tries to highlight its darker sides and seamier aspects, which might harm the basic values of just justice, or in some cases are in direct contradiction therewith.

The thesis uses variable foreign sources, such as expert articles, legal dictionaries, books and other legal literature, to analyse the problematics, which are further supported by American

legal precedents and examples from the praxis. The author of this thesis tries to further clarify the particular institute in the frame of the legal system of the United States of America before all with use of his experience and knowledge imbibed during his studies abroad, before all by multiple helpful consultations with the teachers of the Duke's University in the United States of America.